

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Claim Status

Claims 17-20, 23-28, and 30-31 are canceled.

Claims 1-16, 21-22, and 29 are pending.

Claims 10-11, 21-22 stand withdrawn.

Claim Amendments

Claim 1 is amended to focus on compounds where Q is a C₂ to C₃ alkylene.

Claim 4 is amended to incorporate the proper Markush group language.

Claim 6 is amended to remove the term “amino” from the Markush group. This amendment is made to overcome the claim objection as discussed below.

Claim 9 is amended to correct the dependency from claim 5 to claim 1.

Claim 15 is amended to refer to formula II and also to recite the meaning of the variables R⁵, R⁶, R⁷ and R⁸. Support for this amendment may be found, for example, in the specification at page 19.

Claim 16 is amended to use consistent dependent claim language, i.e., “[t]he compound...” rather than “[a] compound...” Claim 22 is amended in a similar manner.

Claim 21 is amended to refer to formula V, rather than Va.

Applicants submit that no new matter has been added via this amendment and therefore respectfully request its entry. Further, Applicants reserve the right to file a continuing application directed to canceled subject matter.

Claim Objections

Claim 6 stands objected to as allegedly being in improper form. Specifically, claim 6 included the term “amino” for which there was no antecedent basis in claim 1. To obviate this, Applicants have removed the term “amino” from the Markush group.

Claim 18 was objected to; however, this claim has been canceled thereby rendering the objection moot.

Claims 3, 5, 7-8 and 16 stand objected to as being drawn in part to non-elected subject matter. Further, the Office states that “[s]hould Applicant render the following claim rejections moot by amendment, the search would be expanded to include the subject of these claims, which is presently withdrawn.” Applicants, for the reasons set forth below, have rendered the rejections moot and would respectfully request that the search be expanded to compounds where Q is an alkylene group. As an aside, Applicants believe that the subject matter of the claims is not nonelected because a compound having a C₂ to C₃ alkylene for the Q group was selected for the species election in the Response to Restriction Requirement filed on August 4, 2009.

Claim Rejections under 35 U.S.C. § 112, second paragraph

Claims 15, 17 and 18 stands rejected under 35 U.S.C. § 112, second paragraph as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as their invention.

Claims 15, 17 and 18 stand rejected as reciting variables in their structural formula which are not later defined in the claims. Claim 15 has been amended to correct this and claims 17 and 18 are now canceled.

Applicants believe that the amendments presented herewith have obviated the rejections under 35 U.S.C. § 112, second paragraph and therefore Applicants request withdrawal of the rejection.

Claim Rejections under 35 U.S.C. § 102

Claims 1, 2, 4, 6, 9, 13, 14 and 29 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent 6,303,628 by Nakao et al.

Claims 1, 2, 4, 6, 9 and 13 stand rejected under 35 U.S.C. 102(b) as being anticipated by Kambe et al. Org Lett. 2001, 3, 2575-2578.

Claims 1, 2, 4, 6, 9, 13 and 29 stand rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,534,654 by Ohtani et al.

Claims 1, 4, 6, 9, 12, 17 and 29 stand rejected under 35 U.S.C. 102(b) as being anticipated by Gorvin J.H. J. Chem. Soc. 1949, 3304-3311.

Claims 1, 2, 4, 6, 9, 12, 13, 14 and 17 stand rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,608,070 by Nakao et al.

In an effort to advance prosecution, Applicants will apply the above-noted rejections to the currently claimed invention.

To anticipate a claim, a single source must contain all of the elements of the claim. *Hybritech Inc. v. Monoclonal Antibodies, Inc.* 802 F.2d 1367, 1379 (Fed. Cir. 1986).

All of the above cited references teach compounds and generic formulas where the equivalent of the variable Q is an alkenylene group. The currently claimed invention is now only directed to compounds where Q is an alkylene group.

As none of the cited references cited all of the claimed elements, i.e., Q = C₂ to C₃ alkylene, the currently presented claims are not anticipated. As such, Applicants respectfully request withdrawal of the rejection.

Conclusion

Applicants believe that the application is now in condition for allowance. A notice to that effect is earnestly solicited.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 50-4972. Should no proper payment be enclosed herewith, as by a check or credit card payment form being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 50-4972. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 50-4972.

Respectfully submitted,

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